

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL T. WHITLOW, ESQUIRE, : CIVIL ACTION  
Plaintiff, :  
 :  
v. :  
 :  
BEREAN FEDERAL SAVINGS BANK, :  
Defendant. : NO. 00-CV-4267

MEMORANDUM ORDER

J.M. KELLY, J.

MAY 23, 2001

A Hearing was held today in the above-captioned matter on the Court's Order to Show Cause why this matter should not be dismissed with prejudice. Plaintiff, an attorney who is appearing pro se in this matter, failed to appear at today's hearing.

This matter is currently listed in the Court's trial pool and Defendant has filed a Motion for Summary Judgment to which Plaintiff has not filed a timely, or any, Response. Plaintiff has filed a document entitled "Praecipe to Withdraw Complaint," which is ineffective to dismiss the Complaint as Defendant has filed an Answer. Fed. R. Civ. P. 41(a)(1). Plaintiff informed the Court and Defendant that he would file a Stipulation of Dismissal, however, as of the time of today's Hearing in this matter, no stipulation was filed. Defendant expressed concern at the Hearing that any dismissal of this matter be with prejudice.

Given Plaintiff's failure to prosecute this matter and his inability to effectively dismiss this matter, it is ORDERED that

this matter is DISMISSED WITH PREJUDICE.

The Clerk of Court shall mark this matter as CLOSED.

BY THE COURT:

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JAMES MCGIRR KELLY, J.